

ESTTA Tracking number: **ESTTA447174**

Filing date: **12/19/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202494
Party	Defendant Facebook, Inc.
Correspondence Address	ANNE PECK COOLEY LLP 777 6TH ST NW STE 1100 WASHINGTON, DC 20001-3706  trademarks@cooley.com
Submission	Motion to Dismiss - Rule 12(b)
Filer's Name	Kathryn D. Duvall
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Signature	/KDD/
Date	12/19/2011
Attachments	Facebook Motion to Dismiss Fedore Opposition_Dec 19 2011.pdf ( 91 pages ) (2615798 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Ser. No. 85/147,955  
Mark: FACEBOOK

JASON FEDORE,	)	
	)	
Opposer,	)	
	)	Opposition No. 91202494
v.	)	
	)	
FACEBOOK, INC.,	)	
	)	
Applicant.	)	
_____	)	

**APPLICANT FACEBOOK, INC.’S MOTION TO DISMISS NOTICE OF OPPOSITION  
FOR FAILURE TO STATE A CLAIM UNDER RULE 12(b)(6)**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Applicant Facebook, Inc. (“Facebook”), through its undersigned counsel, moves to dismiss the Notice of Opposition filed by Jason Fedore (“Opposer” or “Mr. Fedore”) on the ground that it fails to state a claim upon which relief may be granted.

**I. INTRODUCTION**

Mr. Fedore’s Notice of Opposition (the “Opposition”) to Facebook’s application for the mark FACEBOOK (Ser. No. 85/147,955) (“the Application”) should be dismissed because Mr. Fedore fails to allege any ground for the refusal of Facebook’s application. The Opposition consists almost exclusively of allegations regarding Mr. Fedore’s purported standing to oppose the Application, without ever stating a legal basis for the request that the application be refused. Indeed, Mr. Fedore explicitly disavows the sole ground for opposition mentioned in his Opposition – likelihood of confusion. Even if Mr. Fedore’s allegations are sufficient to establish

standing, the opposition cannot proceed without a legally recognized ground for refusal. It should therefore be dismissed.

## **II. BACKGROUND**

This Opposition is the second of two TTAB actions between Facebook and Mr. Fedore. In October of 2011, Facebook instituted an Opposition proceeding (No. 91202245), requesting that the Board refuse Mr. Fedore's application to register the mark FACEMEETING for use in connection with "[d]ating services, namely, providing an on-line computer database featuring single people interested in meeting other single people" (the "FACEMEETING Opposition"). (Declaration of Kathryn D. Duvall in Support of Applicant Facebook's Motion to Dismiss ("Duvall Decl."), Ex. A.) The FACEMEETING Opposition alleges, *inter alia*, that Mr. Fedore's use and registration of the FACEMEETING mark creates a likelihood of confusion with and dilution of Facebook's senior rights in its FACEBOOK mark. As a basis for the FACEMEETING Opposition, Facebook asserted its common law rights in the FACEBOOK mark and relied on several issued trademark registrations and pending applications. One of those applications (Ser. No. 85/147,955) is the Application Mr. Fedore seeks to bar from registration in this proceeding.

Mr. Fedore filed the present Opposition on November 9, 2011. Mr. Fedore then filed an Answer to the FACEMEETING Opposition on December 5, 2011, in which he denied any likelihood of confusion or dilution as between the FACEBOOK marks and the FACEMEETING mark. (Duvall Decl., Ex. B at ¶ 10, 14, 17, Fedore Answer to FACEMEETING Opposition.) Mr. Fedore similarly states in the present Opposition that he considers the FACEMEETING and FACEBOOK marks to be distinct, such that he will not allege any likelihood of confusion between the marks. (Opposition, ¶ 4, 9.)

The first three paragraphs of Mr. Fedore's Opposition are spent casting aspersions generally upon Facebook's trademark enforcement efforts, none of which raise a basis for this Opposition. Mr. Fedore then attempts to establish his standing to file the Opposition in paragraphs four through nine, but alleges neither a likelihood of confusion, nor any other ground for opposition. The only paragraphs in which Mr. Fedore even mentions possible grounds for opposition are paragraphs four and nine, where he explicitly states that he considers the marks to be distinct, and refuses to allege that there is a likelihood of confusion. Aside from this glancing reference to (and disavowal of) likelihood of confusion, Mr. Fedore mentions no other possible statutory basis for the Opposition.

### **III. ARGUMENT**

Mr. Fedore's Opposition should be dismissed because he has failed to state a legal basis to refuse Facebook's Application. In considering a motion to dismiss, the Board evaluates whether all the facts as alleged, accepted to be true and construed in a light most favorable to the plaintiff, state a claim for relief. *Advanced Cardiovascular Systems Inc. v. SciMed Life Systems Inc.*, 988 F.2d 1157, 26 USPQ2d 1038, 1041 (Fed. Cir. 1993); *Corporacion Habanos SA v. Rodriguez*, 99 USPQ2d 1873, 1874 (TTAB 2011). A motion to dismiss is designed "to eliminate actions that are fatally flawed in their legal premises and destined to fail ..." *Advanced Cardiovascular*, 26 USPQ2d at 1041.

Mr. Fedore's Opposition intentionally avoids stating facts sufficient to state a legal basis for his claim, and is therefore so "fatally flawed" that it must be dismissed. To properly withstand Facebook's motion to dismiss, Mr. Fedore must allege such facts as would, if proved, establish that (1) the plaintiff has standing to maintain the proceedings, and (2) a valid statutory ground exists for opposing the mark. *Corporacion Habanos*, 99 USPQ2d at 1874 (citing *Fair Indigo LLC v. Style Conscience*, 85 USPQ2d 1536, 1538 (TTAB 2007) (emphasis added)). Mr.

Fedore only attempts to allege the first of these two elements - his standing to bring this proceeding. Indeed, he alleges, without citation, that he need only allege injury: "Opposer believes ... [The Lanham Act] does not require an opposer to plead confusing similarity, but only damage by standing and a real interest in the proceeding and registration." Opposition, ¶ 8. Mr. Fedore is wrong. Opposers must allege both standing and statutory grounds for the opposition. *Corporacion Habanos*, 99 USPQ2d at 1874.

What's more, Mr. Fedore expressly alleges that there is no factual basis for the only statutory ground mentioned in the Opposition – likelihood of confusion – because he believes no likelihood of confusion exists between the two cited marks. He states: "Opposer...believes that Opposer's Mark is distinct from the mark at issue." Opposition, ¶ 4.

And yet, Mr. Fedore seeks to bar registration of Facebook's Application based on an alleged prior use of the FACEMEETING mark. Even assuming the truth of that priority allegation for purposes of this motion, priority alone does not create a statutory basis for this opposition. Priority is irrelevant if there is no likelihood of confusion. *See* 15 U.S.C. § 1052(b) (setting forth as a basis for refusal another's prior use of a mark that is "likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.") Since Mr. Fedore refuses to allege that there is a likelihood of confusion between the marks, he fails to allege a basis for the opposition.

#### **IV. CONCLUSION**

For the foregoing reasons, Mr. Fedore's Opposition fails to meet the requirements necessary to maintain this proceeding. Facebook respectfully requests that the Board grant its Motion to Dismiss Mr. Fedore's Notice of Opposition in its entirety.

Dated: December 19, 2011

COOLEY LLP  
ANNE H. PECK  
KATHRYN D. DUVALL



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Kathryn D. Duvall  
Cooley LLP  
777 6<sup>th</sup> St., NW  
Suite 1100  
Washington, DC 20001

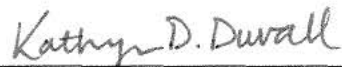
*Attorneys for Applicant Facebook Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 19, 2011, a true and correct copy of the foregoing  
**APPLICANT FACEBOOK, INC.'S MOTION TO DISMISS OPPOSITION FOR  
FAILURE TO STATE A CLAIM UNDER RULE 12(b)(6)** was placed in the United States  
Mail, postage prepaid, addressed to correspondent for Opposer as follows:

Gregg R Zegarelli  
Attorney  
PO Box 113345  
Pittsburgh, PA 15241

Date: December 19, 2011

  
\_\_\_\_\_  
Kathryn D. Duvall

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Ser. No. 85/147,955  
Mark: FACEBOOK

JASON FEDORE,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91202494
	)	
FACEBOOK, INC.,	)	
	)	
Applicant.	)	
_____	)	

**DECLARATION OF KATHRYN D. DUVALL IN SUPPORT OF APPLICANT  
FACEBOOK, INC.'S MOTION TO DISMISS**

I, Kathryn D. Duvall, hereby declare as follows:

1. I am an attorney at the law firm of Cooley, LLP and counsel of record for Facebook, Inc. ("Facebook") in this matter. Unless otherwise stated, I have personal knowledge of the facts set forth in this declaration and, if call to testify as a witness, could and would testify competently hereto.
2. Attached hereto as Exhibit A is a true and correct copy of the Notice of Opposition filed by Facebook on October 24, 2011 against Jason Fedore's ("Mr. Fedore") application Serial No. 85/196,484 for the mark FACEMEETING (Proceeding No. 91202245).
3. Attached hereto as Exhibit B is a true and correct copy of Mr. Fedore's Answer to the Notice of Opposition against application Serial No. 85/196,484, filed December 5, 2011.



I declare under penalty of perjury that the foregoing statements are true and correct.

Executed in Palo Alto, California this 19<sup>th</sup> day of December, 2011.

Kathryn D. Duvall

Kathryn D. Duvall

# **EXHIBIT A**

ESTTA Tracking number: **ESTTA437506**

Filing date: **10/24/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Facebook, Inc.
Granted to Date of previous extension	10/23/2011
Address	1601 S. California Avenue Palo Alto, CA 94304 UNITED STATES

Attorney information	Lori F Mayall Cooley LLP 777 6th Street, NW, Suite 1100 Washington, DC 20001 UNITED STATES trademarks@cooley.com, lmayall@cooley.com Phone:650-843-5000
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### Applicant Information

Application No	85196484	Publication date	04/26/2011
Opposition Filing Date	10/24/2011	Opposition Period Ends	10/23/2011
Applicant	FEDORE, JASON A. 127 ALEXANDER DRIVE IRWIN, PA 15642 UNITED STATES		

### Goods/Services Affected by Opposition

Class 045. First Use: 2007/10/07 First Use In Commerce: 2008/04/12


All goods and services in the class are opposed, namely: Dating services, namely, providing an on-line computer database featuring single people interested in meeting other single people

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	3041791	Application Date	02/24/2005
Registration Date	01/10/2006	Foreign Priority Date	NONE
Word Mark	FACEBOOK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking Class 038. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking

U.S. Registration No.	3122052	Application Date	02/24/2005
Registration Date	07/25/2006	Foreign Priority Date	NONE


Word Mark	FACEBOOK
Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2004/11/16 First Use In Commerce: 2004/11/16 [ providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking ] Class 038. First use: First Use: 2004/11/16 First Use In Commerce: 2004/11/16 providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking

U.S. Registration No.	3659516	Application Date	08/29/2006
Registration Date	07/21/2009	Foreign Priority Date	NONE
Word Mark	FACEBOOK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2006/02/00 First Use In Commerce: 2006/02/00 Clothing for men women, and children, namely, shirts, t-shirts, jackets, tops, sweat shirts, headwear, hats, caps

U.S. Registration No.	3716926	Application Date	03/07/2007
Registration Date	11/24/2009	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2005/09/00 First Use In Commerce: 2005/09/00 Bags, namely, all purpose sports bags, all purpose carrying bags, bags and hold-alls for sports clothing, tote bags, book bags, carry-all bags, traveling bags; umbrellas; briefcase-type portfolios Class 020. First use: First Use: 2005/09/00 First Use In Commerce: 2005/09/00 Picture frames Class 021. First use: First Use: 2009/05/00 First Use In Commerce: 2009/05/00 Insulating sleeves for beverage cans; insulating sleeves for beverage bottles; portable can coolers; portable bottle coolers; thermally insulated containers for beverages		

U.S. Registration No.	3734637	Application Date	05/24/2007
Registration Date	01/05/2010	Foreign Priority Date	NONE
Word Mark	FACEBOOK		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2006/08/00 First Use In Commerce: 2006/08/00 Software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network</p> <p>Class 038. First use: First Use: 2004/02/00 First Use In Commerce: 2004/02/00 Audio and video broadcasting services over the Internet or other communications network, namely, uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video clips; providing on-line chat rooms, listservers, and on-line forums for transmission of messages among computer users concerning user-defined content; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest</p> <p>Class 041. First use: First Use: 2004/02/00 First Use In Commerce: 2004/02/00 On-line journals, namely, blogs featuring user-defined content</p> <p>Class 042. First use: First Use: 2004/02/00 First Use In Commerce: 2004/02/00 Application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network</p>


U.S. Registration No.	3801147	Application Date	11/07/2006
Registration Date	06/08/2010	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2006/08/00 First Use In Commerce: 2006/08/00		

	<p>Computer software development tools for social networking, building social networking applications and for allowing data retrieval, upload, access and management; application programming interface (API) for third-party software and online services for social networking, building social networking applications and for allowing data retrieval, upload, access and management</p> <p>Class 038. First use: First Use: 2004/02/00 First Use In Commerce: 2004/02/00 providing access to computer databases; electronic transmission of instant messages and data</p> <p>Class 041. First use: First Use: 2004/02/00 First Use In Commerce: 2004/02/00 Electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content</p> <p>Class 042. First use: First Use: 2004/02/00 First Use In Commerce: 2004/02/00 Providing temporary use of non-downloadable software applications for classifieds, virtual community, social networking, photo sharing, and transmission of photographic images</p>
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U.S. Registration No.	3814888	Application Date	11/07/2006
Registration Date	07/06/2010	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2007/06/00 First Use In Commerce: 2007/06/00 Providing temporary use of non-downloadable software applications for video sharing		

U.S. Registration No.	3826546	Application Date	08/29/2006
Registration Date	07/27/2010	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2010/05/06 First Use In Commerce: 2010/05/06 Clothing for men, women and children, namely, bottoms, pants, loungewear, sweat pants		

U.S. Registration	3881770	Application Date	06/29/2006
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No.			
Registration Date	11/23/2010	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2004/02/04 First Use In Commerce: 2004/04/00 Advertising and information distribution services, namely, providing classified advertising space via the global computer network; promoting the goods and services of others over the Internet; providing on-line computer databases and on-line searchable databases in the field of classifieds</p> <p>Class 038. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 Providing online chat rooms and electronic bulletin boards for registered users for transmission of messages concerning collegiate life, general interest, classifieds, virtual community, social networking, photo sharing, and transmission of photographic images; provision of on-line forums for the transmission of photographic images; provision of on-line forums for communications on topics of general interest</p> <p>Class 041. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 Providing on-line computer databases and on-line searchable databases in the field of collegiate life concerning college athletics, concerts, entertainment events, art, performing arts, music, dance and academics; providing on-line computer databases and on-line searchable databases featuring collegiate student groups concerning subjects in the fields of academics and entertainment</p> <p>Class 042. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 Computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; and computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; computer services, namely, creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view and download digital photos</p> <p>Class 045. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 Internet based introduction and social networking services; providing on-line computer databases and on-line searchable databases in the field of social networking</p>		
U.S. Registration No.	3917332	Application Date	03/07/2007
Registration Date	02/08/2011	Foreign Priority Date	NONE



Word Mark	FACEBOOK
Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 2010/05/00 First Use In Commerce: 2010/05/00 Bags, namely, backpacks, beach bags, gym bags; drawstring pouches Class 021. First use: First Use: 2009/09/11 First Use In Commerce: 2009/09/11 Bottle openers; plastic cups; mugs; cups; foam drink holders; glass and porcelain giftware, namely, cups; beverage glassware


U.S. Registration No.	3935447	Application Date	12/17/2009
Registration Date	03/22/2011	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.		
Goods/Services	Class 009. First use: First Use: 2006/08/00 First Use In Commerce: 2006/08/00 Computer software development tools; Computer software for use as an application programming interface (API); Application programming interface (API) for computer software which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management; Computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks		

U.S. Application No.	77896315	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		

Design Mark	
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.
Goods/Services	<p>Class 035. First use: Marketing, advertising and promotion services; market research and information services; advertising services, namely, promoting the goods and services of others via computer and communication networks; operating on-line marketplaces for sellers of goods and/or services; online retail store services featuring digital media, namely, pre-recorded digital sound, video and data recordings featuring music, text, video, games, comedy, drama, action, adventure or animation; charitable services, namely, promoting public awareness about charitable, philanthropic, volunteer, public and community service and humanitarian activities</p> <p>Class 038. First use: Delivery of digital music by electronic transmission</p> <p>Class 041. First use: Contest and incentive award programs designed to recognize, reward and encourage individuals and groups which engage in self-improvement, self-fulfillment, charitable, philanthropic, volunteer, public and community service and humanitarian activities and sharing of creative work product</p>

U.S. Application No.	77896317	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.		
Goods/Services	<p>Class 036. First use: Financial transaction processing services, namely, clearing and reconciling financial transactions via computer and communication networks; Electronic processing and transmission of bill payment data for users of computer and communication networks; Electronic funds transfer services; Bill payment services; Financial exchange services, namely, providing a virtual currency for use by members of an online community via computer and communication networks</p>		


U.S. Application No.	77896318	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.		
Goods/Services	<p>Class 038. First use:          Providing access to computer, electronic and online databases; telecommunications services, namely, electronic transmission of data, messages and information; providing online forums for communication on topics of general interest; providing online communications links which transfer web site users to other local and global web pages; providing access to web sites for others hosted on computer servers accessible via a global computer network; providing access to third party web sites by enabling users to log in through a universal username and password via a global computer network and other communication networks; providing online chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; audio, text and video broadcasting services over the Internet or other communications networks featuring the uploaded, posted and tagged audio, text and video content of others; audio, text and video broadcasting services over the Internet or other communications networks, namely, electronically transmitting audio clips, text and video clips of others</p> <p>Class 045. First use:          Identification verification services, namely, providing authentication of personal identification information</p>		

U.S. Application No.	77896322	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.		

Goods/Services	<p>Class 038. First use: Peer-to-peer photo sharing services, namely, electronic transmission of digital photo files among internet users</p> <p>Class 041. First use: Providing computer, electronic and online databases in the field of entertainment and in the fields of secondary, collegiate, social and community interest groups; on-line journals, namely, blogs in the fields of entertainment, education, social, political, cultural, economic, scientific and general interest; electronic publishing services, namely, publication of text and graphic works of others via computer and communications networks in the fields of entertainment, education, social, political, cultural, economic, scientific and general interest; publishing of electronic publications; entertainment services, namely, providing temporary use of interactive, multiplayer and single player games for games played via computer or communication networks; providing information about online computer games and video games via computer or communication networks; arranging and conducting competitions for video gamers and computer game players</p> <p>Class 042. First use: Peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view, and download digital photos; providing a web site featuring technology that enables users to upload and share video, photos, text, graphics and data; creating and maintaining blogs for others; providing a web hosting platform for use of non-downloadable software in connection with interactive, multiplayer and single player games for third parties</p>
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U.S. Application No.	77896323	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.		
Goods/Services	<p>Class 035. First use: Compiling of information into computer databases</p> <p>Class 042. First use: Computer services, namely, creating on-line virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks; application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over</p>		

	communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identity data with and among multiple websites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; computer services, namely, creating indexes of information, sites and other resources available on computer networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data
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U.S. Application No.	77896325	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.		
Goods/Services	Class 038. First use: Providing access to computer databases in the fields of social networking, social introduction and dating Class 045. First use: Social introduction, networking and dating services; providing social services and information in the field of personal development, namely, self-improvement, self-fulfillment, charitable, philanthropic, volunteer, public and community services, and humanitarian activities		


U.S. Application No.	85121339	Application Date	09/01/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		

Design Mark	<b>FACEBOOK</b>
Description of Mark	NONE
Goods/Services	Class 009. First use: Magnetically encoded gift cards Class 016. First use: Gift cards Class 035. First use: Pre-paid gift card services, namely, issuing gift card certificates that may be redeemed for goods or services


U.S. Application No.	85121349	Application Date	09/01/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	The mark consists of the word "FACEBOOK" in white letters inside of a blue rectangle background.		
Goods/Services	Class 009. First use: Magnetically encoded gift cards Class 016. First use: Gift cards Class 035. First use: Pre-paid gift card services, namely, issuing gift card certificates that may be redeemed for goods or services		

U.S. Application No.	85147879	Application Date	10/07/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: Computer software development tools; Computer software for use as an application programming interface (API); Application programming interface (API) for computer software which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management; Computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks

U.S. Application No.	85147898	Application Date	10/07/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: Compiling of information into computer databases; Marketing, advertising and promotion services; market research and information services; advertising services, namely, promoting the goods and services of others via computer and communication networks; operating on-line marketplaces for sellers of goods and/or services; online retail store services featuring digital media, namely, pre-recorded digital sound, video and data recordings featuring music, text, video, games, comedy, drama, action, adventure or animation; charitable services, namely, promoting public awareness about charitable, philanthropic, volunteer, public and community service and humanitarian activities		

U.S. Application No.	85147910	Application Date	10/07/2010
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: Financial transaction processing services, namely, clearing and reconciling financial transactions via computer and communication networks; Electronic processing and transmission of bill payment data for users of computer and communication networks; Electronic funds transfer services; Bill payment services; Financial exchange services, namely, providing a virtual currency for use by members of an online community via computer and communication networks		


U.S. Application No.	85147930	Application Date	10/07/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: Providing access to computer databases in the fields of social networking, social introduction and dating; peer-to-peer photo sharing services, namely, electronic transmission of digital photo files among internet users; Providing access to computer, electronic and online databases; telecommunications services, namely, electronic transmission of data, messages and information; providing online forums for communication on topics of general interest; providing online communications links which transfer web site users to other local and global web pages; providing access to web sites for others hosted on computer servers accessible via a global computer network; providing access to third party web		




	sites by enabling users to log in through a universal username and password via a global computer network and other communication networks; providing online chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; audio, text and video broadcasting services over computer or other communication networks, namely, uploading, posting, displaying, tagging, and electronically transmitting data, information, audio and video images; Delivery of digital music by electronic transmission
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U.S. Application No.	85147937	Application Date	10/07/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 041. First use:</p> <p>Providing computer, electronic and online databases in the field of entertainment and in the fields of secondary, collegiate, social and community interest groups; on-line journals, namely, blogs in the fields of entertainment, education, social, political, cultural, economic, scientific and general interest; electronic publishing services, namely, publication of text and graphic works of others via computer and communications networks in the fields of entertainment, education, social, political, cultural, economic, scientific and general interest; publishing of electronic publications; entertainment services, namely, providing temporary use of interactive, multiplayer and single player games for games played via computer or communication networks; providing information about online computer games and video games via computer or communication networks; arranging and conducting competitions for video gamers and computer game players; Contest and incentive award programs designed to recognize, reward and encourage individuals and groups which engage in self-improvement, self-fulfillment, charitable, philanthropic, volunteer, public and community service and humanitarian activities and sharing of creative work product</p>		

U.S. Application No.	85147950	Application Date	10/07/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		

Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 042. First use:</p> <p>Computer services, namely, creating on-line virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks; application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identity data with and among multiple websites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; computer services, namely, creating indexes of information, sites and other resources available on computer networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view, and download digital photos; providing a web site featuring technology that enables users to upload and share video, photos, text, graphics and data; creating and maintaining blogs for others; providing a web hosting platform for use of non-downloadable software in connection with interactive, multiplayer and single player games for third parties</p>		
U.S. Application No.	85147955	Application Date	10/07/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 045. First use: Social introduction, networking and dating services; providing social services and information in the field of personal development, namely, self-improvement, self-fulfillment, charitable, philanthropic, volunteer, public and community services, and humanitarian activities; Identification verification services, namely, providing authentication of personal identification information

Attachments	78574726#TMSN.jpeg ( 1 page )( bytes ) 78574730#TMSN.jpeg ( 1 page )( bytes ) 78981126#TMSN.jpeg ( 1 page )( bytes ) 77978174#TMSN.jpeg ( 1 page )( bytes ) 77189479#TMSN.jpeg ( 1 page )( bytes ) 77979375#TMSN.jpeg ( 1 page )( bytes ) 78962629#TMSN.jpeg ( 1 page )( bytes ) 78920322#TMSN.jpeg ( 1 page )( bytes ) 77125103#TMSN.jpeg ( 1 page )( bytes ) 77896312#TMSN.jpeg ( 1 page )( bytes ) 77896315#TMSN.jpeg ( 1 page )( bytes ) 77896317#TMSN.jpeg ( 1 page )( bytes ) 77896318#TMSN.jpeg ( 1 page )( bytes ) 77896322#TMSN.jpeg ( 1 page )( bytes ) 77896323#TMSN.jpeg ( 1 page )( bytes ) 77896325#TMSN.jpeg ( 1 page )( bytes ) 85121339#TMSN.jpeg ( 1 page )( bytes ) 85121349#TMSN.jpeg ( 1 page )( bytes ) 85147879#TMSN.jpeg ( 1 page )( bytes ) 85147898#TMSN.jpeg ( 1 page )( bytes ) 85147910#TMSN.jpeg ( 1 page )( bytes ) 85147930#TMSN.jpeg ( 1 page )( bytes ) Facemeeting NOO.pdf ( 55 pages )(2091898 bytes ) 85147937#TMSN.jpeg ( 1 page )( bytes ) 85147950#TMSN.jpeg ( 1 page )( bytes ) 85147955#TMSN.jpeg ( 1 page )( bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/lfm/
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Name	Lori F Mayall
Date	10/24/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 85/196,484  
For the Trademark FACEMEETING  
Published in the Official Gazette on April 26, 2011

FACEBOOK, INC.,	)	
	)	
Opposer,	)	
	)	Opposition No.
v.	)	
	)	
JASON A. FEDORE,	)	
	)	
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

Opposer Facebook, Inc. (“Facebook”), a Delaware corporation having its principal place of business at 1601 S. California Avenue, Palo Alto, California 94304, believes that it will be damaged by the issuance of a registration for the mark FACEMEETING ( “Applicant’s Mark”), as applied for in Application Serial No. 85/196,484 filed on December 13, 2010 by Applicant Jason A. Fedore (“Fedore” or “Applicant”), an individual, located at 127 Alexander Drive, Irwin, Pennsylvania, 15642.

As grounds for opposition, Facebook alleges that:

1. Since its online networking service was launched in February 2004, Facebook has continuously used the mark FACEBOOK in interstate commerce in the United States in connection with its goods and services. The FACEBOOK mark is highly distinctive with regard to online networking goods and services, and Facebook users are accustomed to seeing and expect to see Facebook across the world wide web, not just on the Facebook site.

2. Facebook owns multiple U.S. registrations for the mark FACEBOOK. These registrations cover a wide variety of goods and services, including, but not limited to:

- Internet based introduction and social networking services;
- Providing temporary use of non-downloadable software applications for video sharing;
- Online chat functions for transmission of messages, photographs, videos, and other user-defined content; and online forums;
- Audio and video broadcasting services over the Internet or other communications network for uploading, posting, showing, displaying, tagging and sharing audio, and video clips; and
- Software to enable uploading, tagging, and sharing of photographs, videos, and other user-defined content or information.

3. True and correct copies of registrations for the FACEBOOK mark are attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

4. In addition, Facebook has common law rights in the FACEBOOK mark and marks that incorporate FACEBOOK in connection with various other goods and services, including as identified in pending U.S. trademark applications. True and correct copies of the U.S. Patent and Trademark Office online status pages for Facebook's pending trademark applications for its FACEBOOK and FACEBOOK-formative marks are attached hereto as Exhibit B, and are incorporated by reference as though fully set forth herein. All of Facebook's marks that consist of or incorporate the term FACEBOOK are referred to herein as the "FACEBOOK Marks."

5. As a result of the nature and quality of Facebook's goods and services, its widespread use of the FACEBOOK Marks, extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, its numerous trademark registrations and pending applications, and other factors, the

FACEBOOK Marks are famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

6. On December 13, 2010, Fedore filed an application to register Applicant's Mark for: "Dating services, namely, providing an on-line computer database featuring single people interested in meeting other single people" in International Class 045.

7. Applicant's Mark was published in the *Official Gazette* on April 26, 2011.

**FIRST GROUND FOR OPPOSITION:  
LIKELIHOOD OF CONFUSION**

8. Facebook incorporates by reference Paragraphs 1 through 7, inclusive, as if fully set forth herein.

9. Facebook began using its FACEBOOK mark at least as early as February 2004, and filed applications resulting in federal registrations well prior to Fedore's use of and application to register Applicant's Mark.

10. Applicant's Mark is similar to the registered FACEBOOK Marks in appearance, sound, meaning, and commercial impression.

11. Applicant's services under Applicant's Mark, as identified in its application, are the same as and/or highly related to Facebook's goods and services.

12. Fedore offers its services under Applicant's Mark through the same channel of trade as Facebook.

13. Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was adopted with knowledge of, and the intent to call to mind, and/or create a likelihood of confusion with regard to, and/or trade off the fame of Facebook and the registered FACEBOOK Marks.

14. Applicant's Mark suggests an affiliation or connection between Applicant and

Facebook, where none exists.

**15.** Facebook is not affiliated or connected with Fedore or his service; nor has Facebook endorsed or sponsored Applicant or his services.

**16.** Facebook has no control over the nature and quality of the services offered under Applicant's Mark, and the value of Facebook's FACEBOOK Marks are jeopardized by the registration of Applicant's Mark. Because of the likelihood of confusion between the parties' marks, any defects, improprieties, or faults found with Fedore's services marketed under Applicant's Mark would negatively reflect upon and injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

**17.** Registration of the mark herein opposed will damage Facebook because Applicant's Mark is likely, when used on or in connection with the services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus, Applicant's Mark is unregistrable under 15 U.S.C. §§1052, 1053, 1063 and 1125 and should be refused registration.

**SECOND GROUND FOR OPPOSITION:  
DILUTION OF A FAMOUS MARK**

**18.** Facebook incorporates by reference Paragraphs 1 through 17 inclusive, as if fully set forth herein.

**19.** The FACEBOOK Marks are inherently distinctive in relation to Facebook's online networking goods and services.

**20.** Facebook has used the FACEBOOK trademark since at least as early as 2004 for online networking goods and services, and has expanded use of the FACEBOOK Marks to many other goods and services.

**21.** Facebook is the owner of numerous U.S. registrations and applications for the



FACEBOOK Marks.

**22.** Facebook has continuously used the FACEBOOK Marks throughout the United States and internationally.

**23.** As a result of the enormous publicity afforded the FACEBOOK Marks, and the strong and loyal base of customers that enjoys Facebook's goods and services, the FACEBOOK Marks have a high degree of consumer recognition, are widely recognized by the general consuming public of the United States as a designation of Facebook's goods and services, and are famous.

**24.** The FACEBOOK Marks became famous before Fedore's filing to register Applicant's Mark on December 13, 2010, and before Fedore began allegedly using Applicant's Mark in United States commerce.

**25.** Applicant's Mark incorporates the entire "face" prefix and its use is likely to cause an association between Applicant's Mark and the FACEBOOK Marks that impairs the distinctiveness of the FACEBOOK Marks and weakens the connection in the public's mind between the FACEBOOK Marks and Facebook's goods and services.

**26.** Applicant's Mark is likely to cause dilution by blurring based on a number of relevant considerations, including:

(a) Applicant's Mark is similar to the FACEBOOK Marks.

(b) The FACEBOOK Marks are inherently distinctive in relation to Facebook's online networking goods and services;

(c) Facebook has substantially and exclusively used the FACEBOOK Marks in connection with online networking goods and services;

(d) The FACEBOOK Marks are widely recognized by the general consuming

public;

(e) Facebook is informed and believes, and based thereon alleges, that Fedore's adoption and use of Applicant's Mark was and is intended to create an association with the FACEBOOK Marks.

27. Accordingly, Applicant's Mark is unregistrable under 15 U.S.C. §§ 1052, 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 85/196,484 be refused.

Respectfully submitted,

COOLEY LLP  
ANNE H. PECK  
JEFFREY T. NORBERG  
GAVIN L. CHARLSTON  
LORI F. MAYALL



Date: October 24, 2011

By: \_\_\_\_\_  
Lori F. Mayall  
Attorneys for Opposer Facebook, Inc.

Cooley LLP  
777 6<sup>th</sup> St., NW  
Suite 1100  
Washington, D.C. 20001  
T: 650-843-5000  
F: 650-849-7400

**CERTIFICATE OF TRANSMITTAL AND SERVICE**

I hereby certify that this Notice of Opposition is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

I hereby further certify that on the date indicated below, a true and correct copy of this Notice of Opposition was placed in the United States Mail via First Class Mail, addressed to the applicant and correspondent for the subject application as follows:

Jason A. Fedore  
127 Alexander Drive  
Irwin, PA 15642

and

Gregg Zegarelli  
Tev Law Group  
Po Box 113345  
Pittsburgh PA 15241

Date: October 24, 2011



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Lori F. Mayall

# **EXHIBIT A**

Int. Cls.: 35 and 38

Prior U.S. Cls.: 100, 101, 102 and 104

**United States Patent and Trademark Office**

Reg. No. 3,041,791

Registered Jan. 10, 2006

**SERVICE MARK  
PRINCIPAL REGISTER**

**THEFACEBOOK**

THEFACEBOOK, INC. (DELAWARE CORPORATION)  
471 EMERSON STREET  
PALO ALTO, CA 943011605

FOR: PROVIDING AN ONLINE DIRECTORY INFORMATION SERVICE FEATURING INFORMATION REGARDING, AND IN THE NATURE OF, COLLEGIATE LIFE, CLASSIFIEDS, VIRTUAL COMMUNITY AND SOCIAL NETWORKING, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 2-4-2004; IN COMMERCE 2-4-2004.

FOR: PROVIDING ONLINE CHAT ROOMS FOR REGISTERED USERS FOR TRANSMISSION OF

MESSAGES CONCERNING COLLEGIATE LIFE, CLASSIFIEDS, VIRTUAL COMMUNITY AND SOCIAL NETWORKING, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 2-4-2004; IN COMMERCE 2-4-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-574,726, FILED 2-24-2005.

MATTHEW KLINE, EXAMINING ATTORNEY

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# FACEBOOK

**Word Mark**

FACEBOOK

**Goods and Services**

IC 035. US 100 101 102. G & S: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking. FIRST USE: 20040204. FIRST USE IN COMMERCE: 20040204

IC 038. US 100 101 104. G & S: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking. FIRST USE: 20040204. FIRST USE IN COMMERCE: 20040204

**Standard Characters Claimed****Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Serial Number**

78574726

**Filing Date**

February 24, 2005

**Current Filing Basis**

1A

**Original Filing Basis**

1A

**Published for Opposition**

October 18, 2005

**Change In Registration**

CHANGE IN REGISTRATION HAS OCCURRED

**Registration Number**

3041791

**Registration Date**

January 10, 2006

**Owner**

(REGISTRANT) THEFACEBOOK, Inc. CORPORATION DELAWARE 471 Emerson Street Palo Alto CALIFORNIA 943011605

(LAST LISTED OWNER) FACEBOOK, INC. CORPORATION DELAWARE 1601 South California Avenue  
Palo Alto CALIFORNIA 94304

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** Anne H. Peck

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Affidavit Text** SECT 8 (6-YR).

**Live/Dead Indicator** LIVE

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**Int. Cls.: 35 and 38**

**Prior U.S. Cls.: 100, 101, 102, and 104**

**United States Patent and Trademark Office**

**Reg. No. 3,122,052**

**Registered July 25, 2006**

**SERVICE MARK  
PRINCIPAL REGISTER**

**FACEBOOK**

FACEBOOK, INC. (DELAWARE CORPORATION)  
156 UNIVERSITY AVENUE  
PALO ALTO, CA 94301

FOR: PROVIDING AN ONLINE DIRECTORY  
INFORMATION SERVICE FEATURING INFORMA-  
TION REGARDING, AND IN THE NATURE OF,  
COLLEGIATE LIFE, CLASSIFIEDS, VIRTUAL COM-  
MUNITY AND SOCIAL NETWORKING, IN CLASS  
35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 11-16-2004; IN COMMERCE 11-16-2004.

FOR: PROVIDING ONLINE CHAT ROOMS FOR  
REGISTERED USERS FOR TRANSMISSION OF

MESSAGES CONCERNING COLLEGIATE LIFE,  
CLASSIFIEDS, VIRTUAL COMMUNITY AND SO-  
CIAL NETWORKING, IN CLASS 38 (U.S. CLS. 100,  
101 AND 104).

FIRST USE 11-16-2004; IN COMMERCE 11-16-2004.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

SN 78-574,730, FILED 2-24-2005.

MATTHEW KLINE, EXAMINING ATTORNEY





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Browser to return to TESS)

## FACEBOOK

### Word Mark

FACEBOOK

### Goods and Services

(CANCELLED) IC 035. US 100 101 102. G & S: [ providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking ]. FIRST USE: 20041116. FIRST USE IN COMMERCE: 20041116

IC 038. US 100 101 104. G & S: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking. FIRST USE: 20041116. FIRST USE IN COMMERCE: 20041116

### Standard Characters Claimed

### Mark Drawing Code

(4) STANDARD CHARACTER MARK

### Serial Number

78574730

### Filing Date

February 24, 2005

### Current Filing Basis

1A

### Original Filing Basis

1B

### Published for Opposition

October 4, 2005

### Change In Registration

CHANGE IN REGISTRATION HAS OCCURRED

### Registration Number

3122052

### Registration Date

July 25, 2006

### Owner

(REGISTRANT) FACEBOOK, INC. CORPORATION DELAWARE 1601 South California Avenue Palo Alto CALIFORNIA 94304

<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Anne H. Peck
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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**Int. Cl.: 25**

**Prior U.S. Cls.: 22 and 39**

**United States Patent and Trademark Office**

**Reg. No. 3,659,516**

**Registered July 21, 2009**

**TRADEMARK  
PRINCIPAL REGISTER**

**FACEBOOK**

FACEBOOK, INC. (DELAWARE CORPORATION)  
156 UNIVERSITY AVENUE  
PALO ALTO, CA 94301

FOR: CLOTHING FOR MEN WOMEN, AND  
CHILDREN, NAMELY, SHIRTS, T-SHIRTS, JACK-  
ETS, TOPS, SWEAT SHIRTS, HEADWEAR, HATS,  
CAPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 2-0-2006; IN COMMERCE 2-0-2006.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,041,791 AND  
3,122,052.

SN 78-981,126, FILED 8-29-2006.

EDWARD NELSON, EXAMINING ATTORNEY

# United States of America

United States Patent and Trademark Office

## FACEBOOK

**Reg. No. 3,716,926** FACEBOOK, INC. (DELAWARE CORPORATION)  
Registered Nov. 24, 2009 1601 SOUTH CALIFORNIA AVENUE  
PALO ALTO, CA 94304

**Int. Cls.: 18, 20, and 21** FOR: BAGS, NAMELY, ALL PURPOSE SPORTS BAGS, ALL PURPOSE CARRYING BAGS, BAGS AND HOLD-ALLS FOR SPORTS CLOTHING, TOTE BAGS, BOOK BAGS, CARRY-ALL BAGS, TRAVELING BAGS; UMBRELLAS; BRIEFCASE-TYPE PORTFOLIOS, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

TRADEMARK  
PRINCIPAL REGISTER

FIRST USE 9-0-2005; IN COMMERCE 9-0-2005.

FOR: PICTURE FRAMES, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 9-0-2005; IN COMMERCE 9-0-2005.

FOR: INSULATING SLEEVES FOR BEVERAGE CANS; INSULATING SLEEVES FOR BEVERAGE BOTTLES; PORTABLE CAN COOLERS; PORTABLE BOTTLE COOLERS; THERMALLY INSULATED CONTAINERS FOR BEVERAGES, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 5-0-2009; IN COMMERCE 5-0-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,041,791 AND 3,122,052.

SN 77-978,174, FILED 3-7-2007.

LINDA LAVACHIE, EXAMINING ATTORNEY



*David J. Kappas*

Director of the United States Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## FACEBOOK

**Reg. No. 3,734,637** FACEBOOK, INC. (DELAWARE CORPORATION)  
Registered Jan. 5, 2010 1601 SOUTH CALIFORNIA AVENUE  
PALO ALTO, CA 94304

**Int. Cls.: 9, 38, 41, and 42** FOR: SOFTWARE TO ENABLE UPLOADING, POSTING, SHOWING, DISPLAYING, TAGGING, BLOGGING, SHARING OR OTHERWISE PROVIDING ELECTRONIC MEDIA OR INFORMATION OVER THE INTERNET OR OTHER COMMUNICATIONS NETWORK, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

**TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER**

FIRST USE 8-0-2006; IN COMMERCE 8-0-2006.

FOR: AUDIO AND VIDEO BROADCASTING SERVICES OVER THE INTERNET OR OTHER COMMUNICATIONS NETWORK, NAMELY, UPLOADING, POSTING, SHOWING, DISPLAYING, TAGGING AND ELECTRONICALLY TRANSMITTING INFORMATION, AUDIO, AND VIDEO CLIPS; PROVIDING ON-LINE CHAT ROOMS, LISTSERVICES, AND ON-LINE FORUMS FOR TRANSMISSION OF MESSAGES AMONG COMPUTER USERS CONCERNING USER-DEFINED CONTENT; PROVIDING ON-LINE CHAT ROOMS AND ELECTRONIC BULLETIN BOARDS FOR TRANSMISSION OF MESSAGES AMONG USERS IN THE FIELD OF GENERAL INTEREST, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 2-0-2004; IN COMMERCE 2-0-2004.

FOR: ON-LINE JOURNALS, NAMELY, BLOGS FEATURING USER-DEFINED CONTENT, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 2-0-2004; IN COMMERCE 2-0-2004.

FOR: APPLICATION SERVICE PROVIDER (ASP) FEATURING SOFTWARE TO ENABLE UPLOADING, POSTING, SHOWING, DISPLAYING, TAGGING, BLOGGING, SHARING OR OTHERWISE PROVIDING ELECTRONIC MEDIA OR INFORMATION OVER THE INTERNET OR OTHER COMMUNICATIONS NETWORK, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 2-0-2004; IN COMMERCE 2-0-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,041,791 AND 3,122,052.

SN 77-189,479, FILED 5-24-2007.

TRACY CROSS, EXAMINING ATTORNEY



*David J. Kypas*

Director of the United States Patent and Trademark Office



# United States of America

United States Patent and Trademark Office

## FACEBOOK

**Reg. No. 3,801,147**

**Registered June 8, 2010**

**Int. Cls.: 9, 38, 41, and  
42**

**TRADEMARK**

**SERVICE MARK**

**PRINCIPAL REGISTER**

FACEBOOK, INC. (DELAWARE CORPORATION)  
1601 SOUTH CALIFORNIA AVENUE  
PALO ALTO, CA 94304

FOR: COMPUTER SOFTWARE DEVELOPMENT TOOLS FOR SOCIAL NETWORKING, BUILDING SOCIAL NETWORKING APPLICATIONS AND FOR ALLOWING DATA RETRIEVAL, UPLOAD, ACCESS AND MANAGEMENT; APPLICATION PROGRAMMING INTERFACE (API) FOR THIRD-PARTY SOFTWARE AND ONLINE SERVICES FOR SOCIAL NETWORKING, BUILDING SOCIAL NETWORKING APPLICATIONS AND FOR ALLOWING DATA RETRIEVAL, UPLOAD, ACCESS AND MANAGEMENT, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 8-0-2006; IN COMMERCE 8-0-2006.

FOR: PROVIDING ACCESS TO COMPUTER DATABASES; ELECTRONIC TRANSMISSION OF INSTANT MESSAGES AND DATA, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 2-0-2004; IN COMMERCE 2-0-2004.

FOR: ELECTRONIC PUBLISHING SERVICES, NAMELY, PUBLISHING OF ONLINE WORKS OF OTHERS FEATURING USER-CREATED TEXT, AUDIO, VIDEO, AND GRAPHICS; PROVIDING ON-LINE JOURNALS AND WEB LOGS FEATURING USER-CREATED CONTENT, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 2-0-2004; IN COMMERCE 2-0-2004.

FOR: PROVIDING TEMPORARY USE OF NON-DOWNLOADABLE SOFTWARE APPLICATIONS FOR CLASSIFIEDS, VIRTUAL COMMUNITY, SOCIAL NETWORKING, PHOTO SHARING, AND TRANSMISSION OF PHOTOGRAPHIC IMAGES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 2-0-2004; IN COMMERCE 2-0-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,041,791 AND 3,122,052.

SN 77-979,375, FILED 11-7-2006.

EDWARD NELSON, EXAMINING ATTORNEY



*David J. Kypas*

Director of the United States Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## FACEBOOK

**Reg. No. 3,814,888**

**Registered July 6, 2010**

**Int. Cl.: 42**

**SERVICE MARK**

**PRINCIPAL REGISTER**

FACEBOOK, INC. (DELAWARE CORPORATION)  
1601 SOUTH CALIFORNIA AVENUE  
PALO ALTO, CA 94304

FOR: PROVIDING TEMPORARY USE OF NON-DOWNLOADABLE SOFTWARE APPLICATIONS FOR VIDEO SHARING, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 6-0-2007, IN COMMERCE 6-0-2007.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,041,791 AND 3,122,052.

SN 77-039,123, FILED 11-7-2006.

EDWARD NELSON, EXAMINING ATTORNEY



*David S. Kappas*

Director of the United States Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## FACEBOOK

**Reg. No. 3,826,546**

**Registered July 27, 2010**

**Int. Cl.: 25**

**TRADEMARK**

**PRINCIPAL REGISTER**

FACEBOOK, INC. (DELAWARE CORPORATION)  
1601 SOUTH CALIFORNIA AVENUE  
PALO ALTO, CA 94304

FOR: CLOTHING FOR MEN, WOMEN AND CHILDREN, NAMELY, BOTTOMS, PANTS, LOUNGEWEAR, SWEAT PANTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 5-6-2010; IN COMMERCE 5-6-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,041,791 AND 3,122,052.

SN 78-962,629, FILED 8-29-2006.

EDWARD NELSON, EXAMINING ATTORNEY



*David J. Kappas*

Director of the United States Patent and Trademark Office



# United States of America

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## FACEBOOK

Reg. No. 3,881,770

Registered Nov. 23, 2010

Int. Cls.: 35, 38, 41, 42,  
and 45

SERVICE MARK

PRINCIPAL REGISTER

FACEBOOK, INC. (DELAWARE CORPORATION)  
1601 SOUTH CALIFORNIA AVENUE  
PALO ALTO, CA 94304

FOR: ADVERTISING AND INFORMATION DISTRIBUTION SERVICES, NAMELY, PROVIDING CLASSIFIED ADVERTISING SPACE VIA THE GLOBAL COMPUTER NETWORK; PROMOTING THE GOODS AND SERVICES OF OTHERS OVER THE INTERNET; PROVIDING ON-LINE COMPUTER DATABASES AND ON-LINE SEARCHABLE DATABASES IN THE FIELD OF CLASSIFIEDS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 2-4-2004; IN COMMERCE 4-0-2004.

FOR: PROVIDING ONLINE CHAT ROOMS AND ELECTRONIC BULLETIN BOARDS FOR REGISTERED USERS FOR TRANSMISSION OF MESSAGES CONCERNING COLLEGIATE LIFE, GENERAL INTEREST, CLASSIFIEDS, VIRTUAL COMMUNITY, SOCIAL NETWORKING, PHOTO SHARING, AND TRANSMISSION OF PHOTOGRAPHIC IMAGES; PROVISION OF ON-LINE FORUMS FOR THE TRANSMISSION OF PHOTOGRAPHIC IMAGES; PROVISION OF ON-LINE FORUMS FOR COMMUNICATIONS ON TOPICS OF GENERAL INTEREST, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 2-4-2004; IN COMMERCE 2-4-2004.

FOR: PROVIDING ON-LINE COMPUTER DATABASES AND ON-LINE SEARCHABLE DATABASES IN THE FIELD OF COLLEGIATE LIFE CONCERNING COLLEGE ATHLETICS, CONCERTS, ENTERTAINMENT EVENTS, ART, PERFORMING ARTS, MUSIC, DANCE AND ACADEMICS; PROVIDING ON-LINE COMPUTER DATABASES AND ON-LINE SEARCHABLE DATABASES FEATURING COLLEGIATE STUDENT GROUPS CONCERNING SUBJECTS IN THE FIELDS OF ACADEMICS AND ENTERTAINMENT, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 2-4-2004; IN COMMERCE 2-4-2004.

FOR: COMPUTER SERVICES, NAMELY, HOSTING ONLINE WEB FACILITIES FOR OTHERS FOR ORGANIZING AND CONDUCTING ONLINE MEETINGS, GATHERINGS, AND INTERACTIVE DISCUSSIONS; AND COMPUTER SERVICES IN THE NATURE OF CUSTOMIZED WEB PAGES FEATURING USER-DEFINED INFORMATION, PERSONAL PROFILES AND INFORMATION; COMPUTER SERVICES, NAMELY, CREATING AN ON-LINE COMMUNITY FOR REGISTERED USERS TO PARTICIPATE IN DISCUSSION, GET FEEDBACK FROM THEIR PEERS, FORM VIRTUAL COMMUNITIES, AND ENGAGE IN SOCIAL NETWORKING; PEER-TO-BROWSER PHOTO SHARING SERVICES, NAMELY, PROVIDING A WEBSITE FEATURING TECHNOLOGY ENABLING USERS TO UPLOAD, VIEW AND DOWNLOAD DIGITAL PHOTOS, IN CLASS 42 (U.S. CLS. 100 AND 101).



*David J. Kappas*

Director of the United States Patent and Trademark Office

**Reg. No. 3,881,770** FIRST USE 2-4-2004; IN COMMERCE 2-4-2004.

FOR: INTERNET BASED INTRODUCTION AND SOCIAL NETWORKING SERVICES;  
PROVIDING ON-LINE COMPUTER DATABASES AND ON-LINE SEARCHABLE DATA-  
BASES IN THE FIELD OF SOCIAL NETWORKING, IN CLASS 45 (U.S. CLS. 100 AND 101).

FIRST USE 2-4-2004; IN COMMERCE 2-4-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-  
TICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,041,791 AND 3,122,052.

SN 78-920,322, FILED 6-29-2006.

EDWARD NELSON, EXAMINING ATTORNEY

# United States of America

United States Patent and Trademark Office

## FACEBOOK

**Reg. No. 3,917,332**

**Registered Feb. 8, 2011**

**Int. Cls.: 18 and 21**

**TRADEMARK**

**PRINCIPAL REGISTER**

FACEBOOK, INC. (DELAWARE CORPORATION)  
1601 SOUTH CALIFORNIA AVENUE  
PALO ALTO, CA 94304

FOR: BAGS, NAMELY, BACKPACKS, BEACH BAGS, GYMBAGS; DRAWSTRING POUCHES,  
IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 5-0-2010; IN COMMERCE 5-0-2010.

FOR: BOTTLE OPENERS; PLASTIC CUPS; MUGS; CUPS; FOAM DRINK HOLDERS; GLASS  
AND PORCELAIN GIFTWARE, NAMELY, CUPS; BEVERAGE GLASSWARE, IN CLASS 21  
(U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 9-11-2009; IN COMMERCE 9-11-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-  
TICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,041,791 AND 3,122,052.

SN 77-125,103, FILED 3-7-2007.

LINDA LAVACHE, EXAMINING ATTORNEY



*David J. Kappas*

Director of the United States Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

The Facebook logo, consisting of the word "facebook" in a white, lowercase, sans-serif font, centered within a solid black rectangular background.

Reg. No. 3,935,447

Registered Mar. 22, 2011

Int. Cl.: 9

TRADEMARK

PRINCIPAL REGISTER

FACEBOOK, INC. (DELAWARE CORPORATION)  
1601 SOUTH CALIFORNIA AVENUE  
PALO ALTO, CA 94304

FOR: COMPUTER SOFTWARE DEVELOPMENT TOOLS; COMPUTER SOFTWARE FOR USE AS AN APPLICATION PROGRAMMING INTERFACE (API); APPLICATION PROGRAMMING INTERFACE (API) FOR COMPUTER SOFTWARE WHICH FACILITATES ONLINE SERVICES FOR SOCIAL NETWORKING, BUILDING SOCIAL NETWORKING APPLICATIONS AND FOR ALLOWING DATA RETRIEVAL, UPLOAD, DOWNLOAD, ACCESS AND MANAGEMENT; COMPUTER SOFTWARE TO ENABLE UPLOADING, DOWNLOADING, ACCESSING, POSTING, DISPLAYING, TAGGING, BLOGGING, STREAMING, LINKING, SHARING OR OTHERWISE PROVIDING ELECTRONIC MEDIA OR INFORMATION VIA COMPUTER AND COMMUNICATION NETWORKS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 8-0-2006; IN COMMERCE 8-0-2006.

OWNER OF U.S. REG. NOS. 3,041,791, 3,734,637, AND OTHERS.

THE COLOR(S) BLUE AND WHITE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF THE WORD "FACEBOOK" IN WHITE LETTERS WITH A BLUE BACKGROUND.

SN 77-896,312, FILED 12-17-2009.

JAY FLOWERS, EXAMINING ATTORNEY



*David J. Kypas*

Director of the United States Patent and Trademark Office

# **EXHIBIT B**



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FACEBOOK

**Goods and Services**

IC 035. US 100 101 102. G & S: Marketing, advertising and promotion services; market research and information services; advertising services, namely, promoting the goods and services of others via computer and communication networks; operating on-line marketplaces for sellers of goods and/or services; online retail store services featuring digital media, namely, pre-recorded digital sound, video and data recordings featuring music, text, video, games, comedy, drama, action, adventure or animation; charitable services, namely, promoting public awareness about charitable, philanthropic, volunteer, public and community service and humanitarian activities

IC 038. US 100 101 104. G & S: Delivery of digital music by electronic transmission

IC 041. US 100 101 107. G & S: Contest and incentive award programs designed to recognize, reward and encourage individuals and groups which engage in self-improvement, self-fulfillment, charitable, philanthropic, volunteer, public and community service and humanitarian activities and sharing of creative work product

**Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code**

26.11.21 - Rectangles that are completely or partially shaded  
26.11.25 - Rectangles with one or more curved sides

**Serial Number** 77896315**Filing Date** December 17, 2009**Current Filing Basis**

1B

**Original Filing Basis**

1B

**Published for Opposition**

November 23, 2010

**Owner**

(APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 South California Avenue Palo Alto CALIFORNIA 94304

**Attorney of Record**

Anne H. Peck

**Prior Registrations** 3041791;3122052;3734637;AND OTHERS

**Description of Mark** The color(s) blue and white is/are claimed as a feature of the mark. The mark consists of the word "FACEBOOK" in white letters with a blue background.

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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<b>Word Mark</b>	FACEBOOK
<b>Goods and Services</b>	IC 036. US 100 101 102. G & S: Financial transaction processing services, namely, clearing and reconciling financial transactions via computer and communication networks; Electronic processing and transmission of bill payment data for users of computer and communication networks; Electronic funds transfer services; Bill payment services; Financial exchange services, namely, providing a virtual currency for use by members of an online community via computer and communication networks
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	26.11.21 - Rectangles that are completely or partially shaded 26.11.25 - Rectangles with one or more curved sides
<b>Serial Number</b>	77896317
<b>Filing Date</b>	December 17, 2009
<b>Current Filing Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 25, 2010
<b>Owner</b>	(APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 South California Avenue Palo Alto CALIFORNIA 94304
<b>Attorney of Record</b>	Anne H. Peck
<b>Prior Registrations</b>	3041791;3122052;3734637;AND OTHERS
<b>Description of Mark</b>	The color(s) blue and white is/are claimed as a feature of the mark. The mark consists of the word "FACEBOOK" in white letters with a blue background.
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL



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**Goods and Services** IC 038. US 100 101 104. G & S: Providing access to computer, electronic and online databases; telecommunications services, namely, electronic transmission of data, messages and information; providing online forums for communication on topics of general interest; providing online communications links which transfer web site users to other local and global web pages; providing access to web sites for others hosted on computer servers accessible via a global computer network; providing access to third party web sites by enabling users to log in through a universal username and password via a global computer network and other communication networks; providing online chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; audio, text and video broadcasting services over the Internet or other communications networks featuring the uploaded, posted and tagged audio, text and video content of others; audio, text and video broadcasting services over the Internet or other communications networks, namely, electronically transmitting audio clips, text and video clips of others

IC 045. US 100 101. G & S: Identification verification services, namely, providing authentication of personal identification information

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS**Design** 26.11.21 - Rectangles that are completely or partially shaded**Search Code** 26.11.25 - Rectangles with one or more curved sides**Serial Number** 77896318**Filing Date** December 17, 2009**Current Filing Basis** 1B**Original Filing Basis** 1B**Published for Opposition** December 21, 2010**Owner** (APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 South California Avenue Palo Alto CALIFORNIA 94304

**Attorney of  
Record** Anne H. Peck

**Prior  
Registrations** 3041791;3122052;3734637;AND OTHERS

**Description of  
Mark** The color(s) blue and white is/are claimed as a feature of the mark. The mark consists of the word  
"FACEBOOK" in white letters with a blue background.

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead  
Indicator** LIVE

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IC 041. US 100 101 107. G & S: Providing computer, electronic and online databases in the field of entertainment and in the fields of secondary, collegiate, social and community interest groups; on-line journals, namely, blogs in the fields of entertainment, education, social, political, cultural, economic, scientific and general interest; electronic publishing services, namely, publication of text and graphic works of others via computer and communications networks in the fields of entertainment, education, social, political, cultural, economic, scientific and general interest; publishing of electronic publications; entertainment services, namely, providing temporary use of interactive, multiplayer and single player games for games played via computer or communication networks; providing information about online computer games and video games via computer or communication networks; arranging and conducting competitions for video gamers and computer game players

IC 042. US 100 101. G & S: Peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view, and download digital photos; providing a web site featuring technology that enables users to upload and share video, photos, text, graphics and data; creating and maintaining blogs for others; providing a web hosting platform for use of non-downloadable software in connection with interactive, multiplayer and single player games for third parties

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS**Design** 26.11.21 - Rectangles that are completely or partially shaded**Search Code** 26.11.25 - Rectangles with one or more curved sides**Serial Number** 77896322**Filing Date** December 17, 2009**Current Filing Basis** 1B**Original Filing Basis** 1B

**Published for Opposition** November 23, 2010

**Owner** (APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 South California Avenue Palo Alto CALIFORNIA 94304

**Attorney of Record** Anne H. Peck

**Prior Registrations** 3041791;3122052;3734637;AND OTHERS

**Description of Mark** The color(s) blue and white is/are claimed as a feature of the mark. The mark consists of the word "FACEBOOK" in white letters with a blue background.

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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IC 042. US 100 101. G & S: Computer services, namely, creating on-line virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks; application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identity data with and among multiple websites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; computer services, namely, creating indexes of information, sites and other resources available on computer networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS**Design** 26.11.21 - Rectangles that are completely or partially shaded**Search Code** 26.11.25 - Rectangles with one or more curved sides**Serial Number** 77896323**Filing Date** December 17, 2009**Current Filing Basis** 1B**Original Filing Basis** 1B

**Published for Opposition** November 23, 2010

**Owner** (APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 South California Avenue Palo Alto CALIFORNIA 94304

**Attorney of Record** Anne H. Peck

**Prior Registrations** 3041791;3122052;3734637;AND OTHERS

**Description of Mark** The color(s) blue and white is/are claimed as a feature of the mark. The mark consists of the word "FACEBOOK" in white letters with a blue background.

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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<b>Word Mark</b>	FACEBOOK
<b>Goods and Services</b>	IC 038. US 100 101 104. G & S: Providing access to computer databases in the fields of social networking, social introduction and dating  IC 045. US 100 101. G & S: Social introduction, networking and dating services; providing social services and information in the field of personal development, namely, self-improvement, self-fulfillment, charitable, philanthropic, volunteer, public and community services, and humanitarian activities
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	26.11.02 - Plain single line rectangles; Rectangles (single line)
<b>Serial Number</b>	77896325
<b>Filing Date</b>	December 17, 2009
<b>Current Filing Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	November 23, 2010
<b>Owner</b>	(APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 South California Avenue Palo Alto CALIFORNIA 94304
<b>Attorney of Record</b>	Anne H. Peck
<b>Prior Registrations</b>	3041791;3122052;3734637;AND OTHERS
<b>Description of Mark</b>	The color(s) blue and white is/are claimed as a feature of the mark. The mark consists of the word "FACEBOOK" in white letters with a blue background.
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL



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# FACEBOOK

<b>Word Mark</b>	FACEBOOK
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Magnetically encoded gift cards  IC 016. US 002 005 022 023 029 037 038 050. G & S: Gift cards  IC 035. US 100 101 102. G & S: Pre-paid gift card services, namely, issuing gift card certificates that may be redeemed for goods or services
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	<b>85121339</b>
<b>Filing Date</b>	September 1, 2010
<b>Current Filing Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	July 26, 2011
<b>Owner</b>	(APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 S. California Avenue Palo Alto CALIFORNIA 94304
<b>Attorney of Record</b>	Anne Peck
<b>Prior Registrations</b>	3734637;3793608;3881770;AND OTHERS
<b>Type of Mark</b>	TRADEMARK. SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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<b>Word Mark</b>	FACEBOOK
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Magnetically encoded gift cards IC 016. US 002 005 022 023 029 037 038 050. G & S: Gift cards IC 035. US 100 101 102. G & S: Pre-paid gift card services, namely, issuing gift card certificates that may be redeemed for goods or services
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	26.11.21 - Rectangles that are completely or partially shaded
<b>Serial Number</b>	85121349
<b>Filing Date</b>	September 1, 2010
<b>Current Filing Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	July 26, 2011
<b>Owner</b>	(APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 S. California Avenue Palo Alto CALIFORNIA 94304
<b>Attorney of Record</b>	Anne Peck
<b>Prior Registrations</b>	3734637;3793608;3881770;AND OTHERS
<b>Description of Mark</b>	The color(s) blue and white is/are claimed as a feature of the mark. The mark consists of the word "FACEBOOK" in white letters inside of a blue rectangle background.
<b>Type of Mark</b>	TRADEMARK. SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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# FACEBOOK

<b>Word Mark</b>	FACEBOOK
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Computer software development tools; Computer software for use as an application programming interface (API); Application programming interface (API) for computer software which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management; Computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85147879
<b>Filing Date</b>	October 7, 2010
<b>Current Filing Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	July 26, 2011
<b>Owner</b>	(APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 S. California Avenue Palo Alto CALIFORNIA 94304
<b>Attorney of Record</b>	Anne Peck
<b>Prior Registrations</b>	3734637;3793608;3881770
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL

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# FACEBOOK

<b>Word Mark</b>	FACEBOOK
<b>Goods and Services</b>	IC 035. US 100 101 102. G & S: Compiling of information into computer databases; Marketing, advertising and promotion services; market research and information services; advertising services, namely, promoting the goods and services of others via computer and communication networks; operating on-line marketplaces for sellers of goods and/or services; online retail store services featuring digital media, namely, pre-recorded digital sound, video and data recordings featuring music, text, video, games, comedy, drama, action, adventure or animation; charitable services, namely, promoting public awareness about charitable, philanthropic, volunteer, public and community service and humanitarian activities
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85147898
<b>Filing Date</b>	October 7, 2010
<b>Current Filing Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Owner</b>	(APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 S. California Avenue Palo Alto CALIFORNIA 94304
<b>Attorney of Record</b>	Anne Peck
<b>Prior Registrations</b>	3734637;3793608;3881770
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE



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# FACEBOOK

<b>Word Mark</b>	FACEBOOK
<b>Goods and Services</b>	IC 036. US 100 101 102. G & S: Financial transaction processing services, namely, clearing and reconciling financial transactions via computer and communication networks; Electronic processing and transmission of bill payment data for users of computer and communication networks; Electronic funds transfer services; Bill payment services; Financial exchange services, namely, providing a virtual currency for use by members of an online community via computer and communication networks
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85147910
<b>Filing Date</b>	October 7, 2010
<b>Current Filing Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	July 26, 2011
<b>Owner</b>	(APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 S. California Avenue Palo Alto CALIFORNIA 94304
<b>Attorney of Record</b>	Anne Peck
<b>Prior Registrations</b>	3734637;3793608;3881770;AND OTHERS
<b>Type of Mark Register</b>	SERVICE MARK PRINCIPAL

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# FACEBOOK

**Word Mark** FACEBOOK

**Goods and Services** IC 038. US 100 101 104. G & S: Providing access to computer databases in the fields of social networking, social introduction and dating; peer-to-peer photo sharing services, namely, electronic transmission of digital photo files among internet users; Providing access to computer, electronic and online databases; telecommunications services, namely, electronic transmission of data, messages and information; providing online forums for communication on topics of general interest; providing online communications links which transfer web site users to other local and global web pages; providing access to web sites for others hosted on computer servers accessible via a global computer network; providing access to third party web sites by enabling users to log in through a universal username and password via a global computer network and other communication networks; providing online chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; audio, text and video broadcasting services over computer or other communication networks, namely, uploading, posting, displaying, tagging, and electronically transmitting data, information, audio and video images; Delivery of digital music by electronic transmission

**Standard Characters Claimed****Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 85147930**Filing Date** October 7, 2010**Current Filing Basis** 1B**Original Filing Basis** 1B**Owner** (APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 S. California Avenue Palo Alto CALIFORNIA 94304**Attorney of Record** Anne Peck

**Prior Registrations** 3734637;3793608;3881770  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# FACEBOOK

**Word Mark** FACEBOOK

**Goods and Services** IC 041. US 100 101 107. G & S: Providing computer, electronic and online databases in the field of entertainment and in the fields of secondary, collegiate, social and community interest groups; on-line journals, namely, blogs in the fields of entertainment, education, social, political, cultural, economic, scientific and general interest; electronic publishing services, namely, publication of text and graphic works of others via computer and communications networks in the fields of entertainment, education, social, political, cultural, economic, scientific and general interest; publishing of electronic publications; entertainment services, namely, providing temporary use of interactive, multiplayer and single player games for games played via computer or communication networks; providing information about online computer games and video games via computer or communication networks; arranging and conducting competitions for video gamers and computer game players; Contest and incentive award programs designed to recognize, reward and encourage individuals and groups which engage in self-improvement, self-fulfillment, charitable, philanthropic, volunteer, public and community service and humanitarian activities and sharing of creative work product

**Standard Characters Claimed****Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 85147937**Filing Date** October 7, 2010**Current Filing Basis** 1B**Original Filing Basis** 1B**Owner** (APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 S. California Avenue Palo Alto CALIFORNIA 94304**Attorney of Record** Anne Peck

**Prior Registrations** 3734637;3793608;3881770;AND OTHERS  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# FACEBOOK

**Word Mark** FACEBOOK

**Goods and Services** IC 042. US 100 101. G & S: Computer services, namely, creating on-line virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks; application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identity data with and among multiple websites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; computer services, namely, creating indexes of information, sites and other resources available on computer networks; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view, and download digital photos; providing a web site featuring technology that enables users to upload and share video, photos, text, graphics and data; creating and maintaining blogs for others. providing a web hosting platform for use of non-downloadable software in connection with interactive, multiplayer and single player games for third parties

**Standard Characters Claimed****Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 85147950**Filing Date** October 7, 2010**Current Filing Basis** 1B



**Original Filing Basis** 1B

**Owner** (APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 S. California Avenue Palo Alto CALIFORNIA 94304

**Attorney of Record** Anne Peck

**Prior Registrations** 3734637;3793608;3881770;AND OTHERS

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# FACEBOOK

<b>Word Mark</b>	FACEBOOK
<b>Goods and Services</b>	IC 045. US 100 101. G & S: Social introduction, networking and dating services; providing social services and information in the field of personal development, namely, self-improvement, self-fulfillment, charitable, philanthropic, volunteer, public and community services, and humanitarian activities; Identification verification services, namely, providing authentication of personal identification information
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85147955
<b>Filing Date</b>	October 7, 2010
<b>Current Filing Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	July 12, 2011
<b>Owner</b>	(APPLICANT) Facebook, Inc. CORPORATION DELAWARE 1601 S. California Avenue Palo Alto CALIFORNIA 94304
<b>Attorney of Record</b>	Anne Peck
<b>Prior Registrations</b>	3734637;3801147;AND OTHERS
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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# **EXHIBIT B**

ESTTA Tracking number: **ESTTA444449**

Filing date: **12/05/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202245
Party	Defendant FEDORE, JASON A.
Correspondence Address	GREGG ZEGARELLI TEV LAW GROUP PO BOX 113345 PITTSBURGH, PA 15241  mailroom.grz@zegarelli.com
Submission	Answer
Filer's Name	GREGG ZEGARELLI
Filer's e-mail	mailroom.grz@zegarelli.com
Signature	/gregg zegarelli/
Date	12/05/2011
Attachments	Answer.pdf ( 7 pages )(17134 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of	:	
Jason A. Fedore	:	
	:	Opposition No. 91,202,245
	:	
Serial No.: 85/196,484	:	
Mark: "FACEMEETING"	:	
	:	
	:	
FACEBOOK, INC.,	:	
Opposer,	:	
	:	
v.	:	
	:	
JASON A. FEDORE,	:	
	:	
Applicant.	:	
	:	

ANSWER

Applicant, JASON A. FEDORE ("**Applicant**") generally denies that Opposer will be damaged by the issuance of a registration for the mark FACEMEETING, in conjunction with the specific responses stated below:

1. Applicant admits that the mark "Facebook" has been used regarding services rendered online. As discovery has yet to be conducted, Applicant is not privy to, and lacks knowledge or information sufficient to form a belief, or any entity ownership trail from inception or acquisition, the date of first use and/or how the foregoing regard any goods and/or services respectively offered or whether continuous. Applicant denies that Facebook is highly distinctive, (e.g., Facetime starts with "FACE," being two syllables and eight letters). Applicant lacks knowledge or information sufficient to form a belief about the truth of the remaining averments made in the same numbered paragraph of Opposer's opposition.

2. It is admitted that there are registrations owned by an entity with the same name as Opposer, for which each speaks for itself. As Opposer is not specifying the registrations it is averring in conjunction with the respective claimed goods or services, Applicant must respond that Applicant lacks knowledge or information sufficient to form a belief about the truth of the averments made in same numbered paragraph of Opposer's opposition.

3. Applicant admits that Opposer attached documents, which respectively speak for themselves. Applicant denies that the attachments are the entire file wrapper for the respective marks.

4. Opposer's averment is a homogenized generalization that contains conclusion of law and fact, traversing possibly multiple entities, and apparently respective multiple good and services. Opposer fails to be specific in its averments on a respective mark, registration, jurisdictional basis. Applicant admits Opposer has attached pages to its Opposition which speak for themselves; Applicant denies that printout of the United States Patent & Trademark Office in the manner presented are static. As discovery has not been conducted, Applicant lacks knowledge or information sufficient to form a belief about the truth of the averments made in same numbered paragraph of Opposer's opposition. For example, Opposer does not state which state's law is applicable to its claim of common law rights or the goods or services referenced for each or any mark referenced. Accordingly, Applicant lacks knowledge or information sufficient to form a belief about the truth of the averments made in the same numbered paragraph of Opposer's opposition, or otherwise denies and every document satisfies the averment as made.

5. Applicant avers a standard of law that is both conclusory and Applicant generally denies that the predicate averments are accurate. That said, Applicant lacks knowledge or information sufficient to form a belief about the truth of the conclusion made in same numbered paragraph of Opposer's opposition. Applicant demand specific proof of the same.

6. Admitted.

7. Admitted.

8. Applicant incorporates by this reference the prior paragraphs as if fully set forth again herein.

9. Opposer has not set forth which respective (apparently purposely undefined) "Facebook mark" to which it refers. For example, "THEFACEBOOK" apparently has the same date of first use as "FACEBOOK." As discovery has not been conducted, Applicant must respond that it lacks knowledge or information sufficient to form a belief about the truth of the averments made in same numbered paragraph of Opposer's opposition, or otherwise denies and every claimed mark would or could satisfy the averment as made.

10. It is admitted that both marks shares the referenced four letters. Otherwise, it is denied that the marks are similar in appearance, sound, meaning and commercial impression as averred.

11. As discovery has not been conducted, Applicant lacks knowledge or information sufficient to form a belief about the truth of the averments regarding commercialized services made in same numbered paragraph of Opposer's opposition.

12. As discovery has not been conducted, Applicant lacks knowledge or information sufficient to form a belief about the truth of the averments regarding channels of trade made in same numbered paragraph of Opposer's opposition.

13. It is admitted that Applicant knew of "Facebook." It is denied that the mark was adopted for any purpose asserted to have been improper, including, but not limited to, to call to mind and/or create a likelihood of confusion, to trade off of the fame and registered "Facebook" marks as averred.

14. It is denied that Applicant's mark suggest that there is an affiliation or connection between Applicant and Opposer as averred.

15. Applicant admits Opposer's statement in part, subject to a denial in that Opposer openly invites "deep" associations with "Facebook Apps" "created by 3rd party apps and enabling these apps to integrate deeply into the Facebook experience" thereby creating naked licenses on the "Facebook" brand and for which Facebook openly permits use of its brand in uncontrolled associations without management or control of the quality or performance related thereto.



16. Applicant admits that Opposer does not control Applicant. Otherwise, all averments including, but not limited to, regarding value, likelihood of confusion, reputation are denied. By way of further response, Applicant incorporates by this reference paragraph 15 as if fully set forth again herein.

17. It is denied that Opposer will be damaged, and, indeed, Applicant's mark has been provisionally reviewed and approved by the United States Patent & Trademark Office for registration. By way of further response, Applicant incorporates by this reference paragraph 16 as if fully set forth again herein.

18. Applicant incorporates by this reference the prior paragraphs as if fully set forth again herein.

19. It is denied that "FACEBOOK" is inherently distinctive.

20. Applicant incorporates by this reference paragraph 9 hereof as if more fully set forth again herein. By way of further response, as discovery has not been conducted, Applicant lacks knowledge or information sufficient to form a belief about the truth of the averments made in same numbered paragraph of Opposer's opposition regarding expansion of use.

21. As discovery has not been conducted, Applicant lacks knowledge or information sufficient to form a belief about the truth of the averments made in the same numbered paragraph of Opposer's opposition. Applicant intends to acquire evidence to determine whether Opposer is actually the correct entity to bring this action, including appropriate owner of the marks and/or registrations asserted, particularly in light of the fact that multiple entities exist bearing the name "Facebook," to wit: 3912170 FACEBOOK BEIRUT, LLC, 4663962 FACEBOOK GLOBAL HOLDINGS II, LLC, 4841424 FACEBOOK GLOBAL HOLDINGS I, INC., 4526731 FACEBOOK GLOBAL HOLDINGS I, LLC, 3835815 FACEBOOK, INC., 4775219 FACEBOOK OPERATIONS, LLC, 4953956 FACEBOOK PAYMENTS INC., and 4816729 FACEBOOK SERVICES, INC. (the prefatory number is the entity identification with the State of Delaware).

22. Applicant incorporates by this reference paragraph 20 and 21 hereof, inclusive, as if more fully set forth again herein.

23. As discovery has not been conducted, Applicant lacks knowledge or information sufficient to form a belief about the truth of the averments made in same numbered paragraph including, but not limited to, regarding publicity, loyalty and consumer knowledge. Applicant demands appropriate survey evidence matched in every respect to the context claimed for each and every respective mark asserted as relevant in this proceeding.

24. Applicant incorporates by this reference paragraphs 22 and 23 as if more fully set forth again herein.

25. Applicant lacks knowledge or information sufficient to form a belief about the truth of the averment in same numbered paragraph, to wit: improperly dissecting the mark "face" and hypothetically reforming the mark for purposes of factual assessment as made by Opposer. There are apparently more than 1,700 live trademarks using that term. Applicant demands appropriate survey evidence matched in every respect to the context claimed for each and every respective mark asserted as relevant in this proceeding.

26. It is denied that Applicant's mark will cause blurring, including as averred in subparagraphs (a) - (e), for similarity, distinctiveness, usage, consumer knowledge, association, as averred therein, respectively. By way of further response, Applicant incorporates by this reference paragraph 24 and 25 if more fully set forth again herein.

27. Applicant incorporates by this reference paragraph 17 as if more fully set forth again herein. Applicant is entitled to registration.

#### **AFFIRMATIVE DEFENSES**

28. Applicant incorporates by this reference the prior paragraphs as if more fully set forth again herein.

29. Opposer's claims are barred by the doctrine of naked licensing.

30. Opposer's claims are barred by doctrine of fraud on the United States Patent and Trademark Office.

31. Opposer's claims are barred by the doctrine of laches.

32. Opposer's claims are barred by the doctrine of unclean hands.

33. Opposer's claims are barred by the doctrine of equitable estoppel.

34. Opposer's claims are barred by the doctrine of real party in interest.

35. Opposer's claims are barred by the doctrine of junior user.

36. Opposer's claims are barred by the doctrine of no injury.

37. Opposer's claims are barred by the doctrine that Opposer's marks are not famous or not famous at the relevant times at issue.

38. Opposer's claims are barred by the doctrine of waiver.

39. Opposer's claims are barred by the doctrine of acquiescence.

40. Opposer's claims are barred by the doctrine of abandonment.

WHEREFORE, Opposer will not be damaged by the registration of the mark at issue herein and requests that Facebook's opposition be denied in favor of Applicant.

Date: December 5, 2011

Respectfully submitted,

s/Gregg Zegarelli/  
Gregg R. Zegarelli, Esq.

Attorney for Applicant

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**CERTIFICATE OF SERVICE**

The following person or persons have been served by United States first class mail, postage pre-paid on the date below:

December 5, 2011

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